



## Early Journal Content on JSTOR, Free to Anyone in the World

This article is one of nearly 500,000 scholarly works digitized and made freely available to everyone in the world by JSTOR.

Known as the Early Journal Content, this set of works include research articles, news, letters, and other writings published in more than 200 of the oldest leading academic journals. The works date from the mid-seventeenth to the early twentieth centuries.

We encourage people to read and share the Early Journal Content openly and to tell others that this resource exists. People may post this content online or redistribute in any way for non-commercial purposes.

Read more about Early Journal Content at <http://about.jstor.org/participate-jstor/individuals/early-journal-content>.

JSTOR is a digital library of academic journals, books, and primary source objects. JSTOR helps people discover, use, and build upon a wide range of content through a powerful research and teaching platform, and preserves this content for future generations. JSTOR is part of ITHAKA, a not-for-profit organization that also includes Ithaka S+R and Portico. For more information about JSTOR, please contact [support@jstor.org](mailto:support@jstor.org).

tions ; of the balance of power, and of wars waged to regulate it. Our rivers would serve, as they have in the old world, as barriers between natural enemies. Our lakes would become the theatre of stormy contention between rival nations. Our seaboard would exhibit the spectacle of hostile fleets engaged in scenes of blood and carnage. The picture drawn of the old world, would be realised in the new.

Lands intersected by a narrow frith  
Abhor each other ; Mountains interposed  
Make enemies of nations, who would else,  
Like kindred drops, have mingled into one.'

3.—*Digest of the Cases decided in the Supreme Judicial Court of the Commonwealth of Massachusetts. From March, 1816, to October, 1823, inclusive, as contained in the five last Volumes of Tyng's, and the first of Pickering's Reports. With the Names of the Cases, and a Table of the Titles and References. To which is added, a digested Index of the Names of the Cases in the Eighteen Volumes of Massachusetts Reports.* BY THERON METCALF. Boston, Richardson & Lord. 8vo.

ALL those, who may be interested in knowing the contents of the six latest volumes of the Massachusetts Reports, will be pleased to learn, that their inquiries may be guided by the able and learned editor of Yelverton. A digest of these volumes is not likely, perhaps, very much to increase the already well earned reputation of Mr Metcalf, but we do not hesitate to say, that it will justify and confirm that reputation, and is, accordingly, a publication for which he is entitled to encouragement and thanks from the profession. It is a very easy thing to compile a volume, by copying, verbatim, the indexes of any number of volumes of reports, as Moore, Manning, Baylies, and many others have done, with an economy of labor and thinking on their part, but at the expense of great labor and inconvenience to lawyers, who are obliged to spend a great deal of time in handling volumes and turning leaves, either to find out that nothing is to be found, or in discovering what an author, who, like Comyns, has the skill and learning, and is willing to bestow the labor, requisite to the making of a digest, would present at the first glance to one consulting his work.

Every page of this volume shows that the compiler has critically examined the cases referred to, and, in most instances, at least, has not only stated the points solemnly adjudicated, but also sifted out the *dicta*, *semles*, and *queres* ; stating the propositions in such a

manner that the reader distinguishes at once what was deliberately decided, from what was alleged, supposed, or doubted of, by any particular judge; and, by seeing the name of the judge, he is apprised, at the same time, of the authority, by which these incidental propositions are supported. One who consults the book is thus saved the vexation and disappointment of discovering, when he recurs to the report, that what appeared by the digest to be a direct and solemn decision in favor of his client's claim, is only a proposition incidentally stated by a judge, without perhaps very deliberate consideration; and a proposition that is very remotely connected with the decision of the court. This limitation and qualification of the propositions contained in a digest, are of some practical importance to the community at large, since the abstracts of cases in the digests and treatises, not unfrequently slide into use, and become substituted for the cases themselves, and judges and lawyers proceed upon the supposition, that certain principles have been established by the decisions of courts, when they rest on no better authority than the errors, mistakes, or carelessness of the compilers of digests, and abridgments, or of the authors of elementary treatises; and since every community is affected by the doctrines established in its courts, and practically applied in the administration of the laws, the consequences of such mistakes, carelessness, and want of skill, are the same, though to a very limited extent, as a defective administration of justice, through an imperfect constitution of judicial tribunals.

The titles of this Digest are very similar to those of Johnson's, in both which, *agreement* is made a leading title, according to the former usage, from which some have departed by substituting *contract*, to which they have probably been induced by the title of Comyn's Treatise. The old title of *deed (fait)* is also preserved, in conformity to Comyn's Digest, and those of older date, instead of *conveyance*, which has of late come into use. A change of laws, usages, and forms of business, necessarily introduces a change of the legal nomenclature, but as long as the customary and long established use of terms is attended by no inconvenience, it is certainly better to adhere to it. Considering the small number of volumes included in this Digest, Mr Metcalf has a very numerous list of titles, and to avoid breaking up and dispersing the subjects too much, he frequently introduces under one title only a reference to another; the book is thus made very convenient for use, whether the reader consults it in the course of investigating a subject generally, or to ascertain what is decided upon any particular point.

In a digest of cases, which, taken altogether, do not supply a full body of law upon any one title, the reader cannot expect to find so perfect an arrangement and connexion of the particular subjects coming under any title, as he would meet with in an ele-

mentary treatise ; but this does not excuse the compiler from introducing as much of order and arrangement as his materials admit of. The practice of bringing in the cases belonging to any division of a title in their chronological order, and thus making sudden transitions from one extreme of a subject to another, some six or eight times in the same page, bewilders and confounds one who consults the book. Mr Metcalf has evidently been very careful, in every part of this volume, to arrange the materials coming under each division of a title, in the most easy and natural method, and the different cases are thus made to illustrate and reflect light upon each other, and one may read the abstracts under any title, in their order, without that confusion and perplexity, in which he is too often involved before he has read one half of a page, in some other digests and indexes. We do not mean to say, that this Digest can be read in order like a regular treatise, or even so easily as Comyns's Digest, for that being more full, gives the opportunity of treating subjects in a more intimate connexion, and a more regular sequence, but as far as his materials have given him the opportunity, he has thrown them into a clear method, and in some instances, as under the titles of *Bail*, and *Judgment*, has preserved such a connexion and continuity of the subjects, that the titles may be read in course with as much facility and clearness as a regular treatise.

It is not unworthy of remark, that Mr Metcalf has been careful to use a correct legal phraseology, and has scrupulously avoided the loose, commonplace, and inaccurate phrases so frequently to be met with in our law books, such for instance as *what will justify a deviation*, which is better Irish than English, or is at least a sort of riddle, being equivalent to saying, *what will justify that which is not justifiable*.

Besides the abstracts of the cases in the five last volumes of Tyng's, and the first of Pickering's Reports, this volume contains the rules of practice of the Supreme Court, and the Court of Common Pleas, a list of the cases in all the eighteen volumes of the Massachusetts Reports, with a general notice of the subject of each case, after the manner of the Repertorium Juridicum, and that of Moore's, Burn's, and Johnson's list of cases. Mr Metcalf has also cited a few manuscript cases, decided for the most part, if we recollect rightly, in the county of Norfolk. He has also in a few instances cited cases from the reports in other states, and from the English reports, sometimes in confirmation of the digested cases, and sometimes in opposition to them. The few notes he has made, particularly that under the title *Mortgages*, add not a little to the value of the work, which, taken altogether, is accurately, skilfully, and industriously wrought ; and,—which is expressing ourselves pretty strongly in its favor,—will not disappoint the expectations raised in the profession by any publication of the compiler.